

SOLOMON E. GRESEN [SBN: 164783]  
STEVEN V. RHEUBAN [SBN: 48538]  
**LAW OFFICES OF RHEUBAN & GRESEN**  
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Attorneys for Plaintiffs

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

OMAR RODRIGUEZ; CINDY GUILLEN-  
GOMEZ; STEVE KARAGIOSIAN;  
ELFEGO RODRIGUEZ; AND JAMAL  
CHILDS,

Plaintiffs,

-vs-

BURBANK POLICE DEPARTMENT; CITY  
OF BURBANK; AND DOES 1 THROUGH  
100, INCLUSIVE.

Defendants.

BURBANK POLICE DEPARTMENT; CITY OF  
BURBANK,

Cross-Complainants,

-vs-

OMAR RODRIGUEZ, and Individual,

Cross- Defendant

CASE NO.: BC 414 602  
Complaint Filed: May 28, 2009  
Assigned to: Hon. Joanne B. O'Donnell, Judge  
**PLAINTIFF'S MOTION FOR  
PROTECTIVE ORDER; MEMORANDUM  
OF POINTS AND AUTHORITIES;  
DECLARATION OF SOLOMON E.  
GRESEN**  
**DATE: May 11, 2010**  
**TIME: 10:00 A.M.**  
**PLACE: 707 Wilshire Blvd, 46<sup>th</sup> Floor**  
**Los Angeles, CA 90017**

Discovery Referee: Hon. Diane Wayne, Retired  
Trial Date: August 25, 2010

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:  
PLEASE TAKE NOTICE that on May 11, 2010, at 10:00 a.m. or as soon thereafter as the

1 a protective order prohibiting defendants Burbank Police Department and City of Burbank  
2 (collectively, "Defendants") from taking the deposition of non-party Russell Moore, currently  
3 noticed for April 9, 2010.

4 Plaintiff's motion for protective order is brought on the grounds that Mr. Moore is not a  
5 percipient witness to any events relevant to the current pleadings in this action, and is only being  
6 deposed as a means of disciplining Plaintiff Steve Karagiosian

7 The Motion is based on this notice, the accompanying Memorandum of Points & Authorities  
8 and Declaration of Solomon E. Gresen; all of the papers and pleadings on file in this action; and any  
9 additional evidence and argument that may be submitted prior to or at the hearing on the motion.

10  
11  
12 DATED: April 8, 2010

LAW OFFICES OF RHEUBAN AND GRESEN

13  
14 By: Steven M. Cischke  
15 Steven M. Cischke  
16 Attorneys for Plaintiffs Omar Rodriguez, Steve Karagiosian,  
17 Cindy Guillen-Gomez, Elfego Rodriguez and Jamal Childs  
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1                                   **MEMORANDUM OF POINTS AND AUTHORITIES**

2                                   **I. RELEVANT FACTS**

3                   Defendants have noticed the deposition of Los Angeles County Deputy District Attorney  
4 Russell Moore, who is not a party to this action. Mr. Moore was the subject of questions directed to  
5 Plaintiff Steve Karagiosian during his deposition in the companion case of *Dunn v. City of Burbank*,  
6 L.A.S.C. Case No. BC417928. The deposition concerned Steve Karagiosian's knowledge and  
7 participation in an investigation into a murder referred to as the "Jacaranda Murder."

8                   The Jacaranda Murder was an Armenian-on-Armenian murder that occurred in Glendale.  
9 Karagiosian was called in to provide translation services because of the Armenian witnesses.  
10 Karagiosian had no responsibility for any of the investigation. Karagiosian worked in conjunction  
11 with police officers from Glendale and Deputy D.A. Moore.

12                  During the investigation, Karagiosian overheard a white officer, who was questioning an  
13 Armenian suspect, say, "White people don't like it when their doors are knocked down and they get  
14 killed in Burbank."

15                  During Karagiosian's deposition in the Dunn case, Defense attorney Carol Humiston, who  
16 represents the City of Burbank in both this action and the Dunn case, began asking questions about  
17 Karagiosian's involvement in the Jacaranda Murder investigation, including whether Karagiosian  
18 reported the above comment, and, if not, why not. The questions constituted a violation of  
19 Karagiosian's rights under the Police Officer's Procedural Bill of Rights. Further, Humiston asked  
20 Karagiosian about a conversation he had with Moore just days prior to the deposition, over  
21 Plaintiff's counsel objections. The deposition was held in Judge Rosenfield's jury room and was  
22 videotaped.

23                  After about fifteen minutes, Plaintiff's counsel objected to any further questioning and  
24 sought relief from Judge Rosenfield. After watching the video, Judge Rosenfield ruled that the  
25 questions, including those regarding Karagiosian's telephone conversation with Moore, were not  
26 relevant to the case, and limited Humiston to questions about events that occurred prior to Dunn's  
27 termination.

28                  Now, in a blatant attempt to improperly use the court to further its discipline of Karagiosian,

Humiston has noticed Moore's deposition in this action despite the fact that Moore is not a percipient witness to any events relevant to the current pleadings in the action.

Counsel for Plaintiff, Solomon Gresen, has made diligent and good faith efforts to resolve this issue without the need for this motion. After being served with the notice of deposition, Mr. Gresen received a telephone message from attorney Kristin Pelletier in which she stated she wanted to discuss Moore's deposition. This seemed strange since Ms. Pelletier represents the City of Burbank in the Dunn Case, but not in the Rodriguez case in which the deposition was noticed. Nonetheless, Mr. Gresen attempted to return Ms. Pelletier's call, both as a matter of course and in an attempt to meet and confer regarding Plaintiff's objections. Mr. Gresen was unable to contact Ms. Pelletier, so he instructed an associate to fax and mail a letter to both Ms. Pelletier and Ms. Humiston, setting forth Plaintiff's objections, inviting them to call Mr. Gresen, and informing them of Plaintiff's intent to file the present motion.

On April 8, Plaintiff's counsel received a letter in response to Mr. Cischke's letter from Ms. Humiston. Ms. Humiston's letter misses the point. Plaintiff is not objecting to Mr. Moore's deposition on the ground that it violates Judge Rosenfield's order, but on the ground that it is not reasonably calculated to lead to the discovery of admissible evidence, but instead is being taken for the improper purpose of attempting to discipline Karagiosian for something which happened only weeks ago. Regarding the allegation that Ms. Humiston's recent conversation with Mr. Moore is another example of retaliation and is therefore relevant, there has been no government claim form filed with respect to such conduct, and Judge O'Donnell has indicated that we might not be allowed to amend the complaint. Thus, such conduct is not relevant to the current pleadings.

## **II. THE COURT HAS GOOD CAUSE TO GRANT THE PROTECTIVE ORDER**

### ***1. A Protective Order Can Be Fashioned To Fit The Circumstances Of A Particular Case***

The party to whom discovery is directed may move for a protective order pursuant to California Code of Civil Procedure §2025.420(b) which states "[t]he court, for good cause shown, may make any order that justice requires to protect any party from unwarranted annoyance, embarrassment, oppression, or undue burden and expense." The protective order may include that the deposition not be taken at all. Code of Civil Procedure §2025.420(b)(1). Furthermore, it is a

misuse of discovery process to “[e]mploy a discovery method in a manner or to an extent that causes unwarranted annoyance, embarrassment, or oppression, or undue burden and expense.” Code of Civil Procedure §2023.010(a). Grounds for a protective order “may include, but are not limited to, one or more of the following directions:”

(1) “That the deposition not be taken at all.”

(2) “That the deposition be taken at a different time.”

(5) “That the deposition may only be taken on certain terms and conditions.”

Prior to filing a motion, the moving party must attempt to “meet and confer” regarding its attempt to resolve the issue. §2025.420(a).

In Stadish v. Sup. Court, (1999) 71 Cal. App. 4th 1130, 1145, the court explained, “The state has two substantial interests in regulating pre-trial discovery. The first is to facilitate the search for truth and promote justice. The second is to protect the legitimate privacy interests of the litigants and third parties.” Id. The Court has the “flexibility to fashion a protective order which is appropriate to a particular case.” Lowy v. Development Corp. v. Superior Ct., (1987) 190 Cal. App. 3d 317, 321.

## *2. The Deposition has Been Noticed for an Improper Purpose*

Plaintiff is not objecting to Mr. Moore’s deposition on the ground that it violates Judge Rosenfield’s order, but on the ground that it is not reasonably calculated to lead to the discovery of admissible evidence, but instead is being taken for the improper purpose of disciplining Karagiosian. Although there is an allegation that Ms. Humiston’s recent conversation with Mr. Moore is another example of retaliation and is therefore arguably relevant, there has been no government claim form filed with respect to such conduct, and Judge O’Donnell has indicated that Plaintiff might not be allowed to amend the complaint. Thus, such conduct is not relevant to the current pleadings.

Mr. Moore is not a percipient witness to any events relevant to this action. His deposition is not calculated to lead to the discovery of admissible evidence, but for the improper purpose of allowing Ms. Humiston to continue the improper line of questioning – that Judge Rosenfield prohibited in the Dunn Case – in an attempt to discipline Karagiosian. Thus, the deposition should

1 not be allowed to go forward.

2  
3 **III. CONCLUSION**

4 For the foregoing reasons, Plaintiff respectfully requests a protective order prohibiting  
5 Defendants from taking the deposition of Russell Moore.

6  
7  
8 DATED: April 8, 2010

LAW OFFICES OF RHEUBAN & GRESEN

9  
10 By: Steven M. Cischke  
11 Steven M. Cischke  
12 Attorneys for Plaintiffs Omar Rodriguez, Steve Karagiosian,  
13 Cindy Guillen-Gomez, Elfego Rodriguez and Jamal Childs  
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1           6. After about fifteen minutes, I objected to any further questioning and sought relief from  
2 Judge Rosenfield. After watching the video, Judge Rosenfield ruled that the questions, including  
3 those regarding Karagiosian's telephone conversation with Moore, were not relevant to the case,  
4 and limited Humiston to questions about events that occurred prior to Dunn's termination. A true  
5 and correct copy of Partial Deposition Transcript of Steve Karagiosian, Volume II, taken on  
6 February 4, 2010, is attached hereto as Exhibit "B," and incorporated herein by reference.  
7 A true and correct copy of the Reporter's Transcript of Proceedings of February 4, 2010, before  
8 Judge Rosenfield, is attached hereto as Exhibit "C," and incorporated herein by reference.

9           7. After being served with the notice of Moore's deposition, I received a telephone message  
10 from attorney Kristin Pelletier in which she stated she wanted to discuss Moore's deposition. This  
11 seemed strange since Ms. Pelletier represents the City of Burbank in the Dunn Case, but not in the  
12 Rodriguez case in which the deposition was noticed. Nonetheless, I attempted to return Ms.  
13 Pelletier's call, both as a matter of course and in an attempt to meet and confer regarding Plaintiff's  
14 objections to the deposition. I was unable to contact Ms. Pelletier, so, at my request, another  
15 attorney in my office, Steven Cischke, sent a letter to both Ms. Pelletier and Ms. Humiston, setting  
16 forth Plaintiffs' objections to the Moore deposition, inviting them to contact me, and confirming our  
17 intent to file a motion for protective order. A true and correct copy of Mr. Cischke's letter is  
18 attached hereto as "Exhibit D," and incorporated herein by reference.

19           8. On April 8, I received a letter in response to Mr. Cischke's letter from Ms. Humiston, a  
20 true and correct copy of which is attached hereto as Exhibit "E," and incorporated herein by  
21 reference. Ms. Humiston's letter misses the point. Plaintiff is not objecting to Mr. Moore's  
22 deposition on the ground that it violates Judge Rosenfield's order, but on the ground that it is not  
23 reasonably calculated to lead to the discovery of admissible evidence, but instead is being taken for  
24 the improper purpose of attempting to discipline Karagiosian for somethin which happened only  
25 weeks ago. Regarding the allegation that Ms. Humiston's recent conversation with Mr. Moore is  
26 another example of retaliation and is therefore relevant, there has been no government claim form  
27 filed with respect to such conduct, and Judge O'Donnell has indicated that we might not be allowed  
28 to amend the complaint. Thus, such conduct is not relevant to the current pleadings.

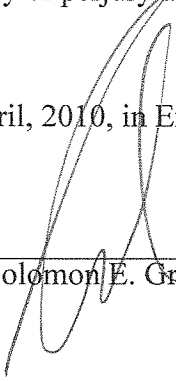
          9. A true and correct copy of Mr. Cischke's response to Ms. Humiston's letter is attached



1 hereto as Exhibit "F," and incorporated herein by reference.

2 9. I declare under the penalty of perjury under the laws of the State of California that the  
3 foregoing is true and correct.

4 Executed this 8th day of April, 2010, in Encino, California.

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8 Solomon E. Gresen  
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## **EXHIBIT A**

1 DENNIS A. BARLOW, CITY ATTORNEY  
State Bar No. 63849  
2 CAROL A. HUMISTON, SR. ASST. CITY ATTY.  
State Bar No. 115592  
3 275 East Olive Avenue  
Burbank, California 91502  
4 Telephone: (818) 238-5707  
Facsimile: (818) 238-5724

5 LINDA MILLER SAVITT (SBN 094164)  
6 BALLARD, ROSENBERG, GOLPER & SAVITT LLP  
500 North Brand Boulevard, Twentieth Floor  
7 Glendale, California 91203-9946  
Telephone: (818) 508-3700  
8 Facsimile: (818) 506-4827

9 LAWRENCE A. MICHAELS (SBN 107260)  
MITCHELL SILBERBERG & KNUPP LLP  
10 11377 West Olympic Boulevard  
Los Angeles, California 90064-1683  
11 Telephone: (310) 312-2000  
Facsimile: (310) 312-3100

12 Attorneys for Defendant and Cross-Complainant  
13 CITY OF BURBANK, including the POLICE  
DEPARTMENT OF THE CITY OF BURBANK  
14 (erroneously sued as an independent entity named  
"BURBANK POLICE DEPARTMENT")

15  
16 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
17 FOR THE COUNTY OF LOS ANGELES

18 OMAR RODRIGUEZ; CINDY GUILLEN-  
19 GOMEZ; STEVE KARAGIOSIAN; ELFEGO  
20 RODRIGUEZ; and JAMAL CHILDS,

21 Plaintiffs,

22 v.

23 BURBANK POLICE DEPARTMENT; CITY  
OF BURBANK; and DOES 1 through 100,  
24 inclusive,

25 Defendants.

26 And Related Cross-Action.  
27  
28

Case No. BC 414602

**AMENDED NOTICE OF TAKING  
DEPOSITION OF RUSTY MOORE**

File Date: May 28, 2009  
Trial Date: August 25, 2010

1 TO PLAINTIFFS AND THEIR COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE that at the request of the deponent's counsel, the deposition of  
3 RUSTY MOORE will now be taken by Defendant City of Burbank on April 9, 2010, at 1:30 p.m.  
4 at Burke, Williams and Sorenson, 444 S. Flower Street, Suite 2400, Los Angeles, California,  
5 before a person duly authorized to administer oath, and if not completed, the taking of the same  
6 will continue the following business day, until completed.

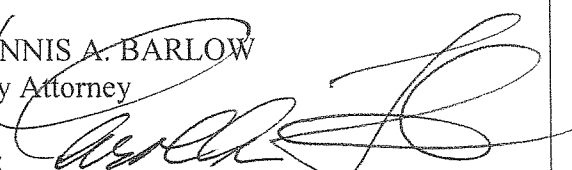
7 PLEASE TAKE FURTHER NOTICE that the deposition of Mr. Moore will be  
8 videotaped pursuant to CCP section 2025.340.

9 The deponent is not a party to this action. Pursuant to Mr. Moore's counsel, service of an  
10 amended subpoena is not required.

11 DATED: March 30, 2010

12 Respectfully submitted,

13 DENNIS A. BARLOW  
14 City Attorney

15 By:   
16 Carol A. Humiston  
17 Sr. Assistant City Attorney  
18 Attorney for Defendant  
19 CITY OF BURBANK  
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On March 30, 2010, I served the following document described as:

I caused such envelope(s) to be delivered by hand to the following addressee:

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Arthur Khan

Arthur Khanbabians

## **EXHIBIT B**

Humiston excerpt  
SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

CHRISTOPHER LEE DUNN,  
Plaintiff,  
vs.  
BURBANK POLICE DEPARTMENT;  
CITY OF BURBANK; AND DOES 1  
THROUGH 100, INCLUSIVE,  
Defendants.

No. BC417928  
VOLUME II  
(PARTIAL TRANSCRIPT)

PARTIAL DEPOSITION TRANSCRIPT OF STEVE  
KARAGIOSIAN, VOLUME II, taken on behalf of  
the Defendants, at 111 North Hill Street,  
Department 31, Los Angeles, California,  
commencing at 2:01 p.m., on Thursday,  
February 4, 2010, before Susan C. Campana,  
CSR No. 9573, RPR.

PAGES 1 - 18

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A P P E A R A N C E S:

FOR PLAINTIFF CHRISTOPHER LEE DUNN AND WITNESS STEVE  
KARAGIOSIAN:

LAW OFFICES OF RHEUBAN & GRESEN  
BY: SOLOMON E. GRESEN, ATTORNEY-AT-LAW  
Suite 1610  
15910 Ventura Boulevard  
Encino, California 91436  
818/815-2727

FOR DEFENDANTS BURBANK POLICE DEPARTMENT:

DENNIS A. BARLOW, CITY ATTORNEY  
BY: CAROL A. HUMISTON,  
SENIOR ASSISTANT CITY ATTORNEY  
275 East Olive Avenue  
Burbank, California 91502  
818/238-5700

ALSO PRESENT:

CHRISTOPHER LEE DUNN  
TIM BARKER, VIDEOGRAPHER

2

WITNESS  
STEVE KARAGIOSIAN

I N D E X  
EXAMINATION BY  
MS. HUMISTON

PAGE  
5

E X H I B I T S  
(None Offered)

Humiston excerpt

LOS ANGELES, CALIFORNIA; THURSDAY, FEBRUARY 4, 2010  
2:01 P.M.  
-000-

THE VIDEOGRAPHER: And good afternoon.  
We're on the videotape record beginning  
Tape No. 1 of Volume No. 2 at 2:01 p.m.  
Will counsel please make verbal introductions  
for the record.  
MR. GRESSEN: Solomon Gresen, Rheuban & Gresen,  
appearing on behalf of the witness, Steve Karagiosian,  
who is present. Officer -- not "Officer," but Chris Dunn  
is also present. He's the plaintiff in this case.  
MS. HUMISTON: Carol Humiston for the Burbank Police  
Department.  
THE VIDEOGRAPHER: Very good.  
And will the court reporter please administer  
the oath.

STEVE KARAGIOSIAN,  
having been first duly affirmed under  
the penalty of perjury, was examined  
and testified as follows:

## EXAMINATION

BY MS. HUMISTON:

Q. Officer Karagiosian, yesterday you were sworn in, and I gave you some admonitions. Do you recall those?

A. Yes.

Q. Do I need to repeat them?

A. No.

Q. Did you inform the district attorney in the Jacaranda murder case that you had heard quite a bit of anti-Armenian talk out of an investigator in that case, Angelo Dahlia?

A. No.



Humiston excerpt

19 Q. Why not?  
20 MR. GRESEN: Well, I didn't get a chance to object.  
21 So this will be my standard objection to the Jacaranda  
22 murder case.  
23 The question is -- is overbroad, irrelevant, not  
24 reasonably calculated to lead to the discovery of  
25 admissible evidence, and foundation.

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1 MS. HUMISTON: Okay. That's fine. You don't -- you  
2 don't have to repeat it.  
3 MR. GRESEN: Oh, no. I know. That's why I wanted to  
4 just be clear.  
5 THE WITNESS: The question, why not?  
6 Q. BY MS. HUMISTON: why not?  
7 A. He mentioned it to me, and I advised him that I  
8 had already made a verbal complaint to the lieutenant  
9 regarding that incident.  
10 Q. Who is "he" mentioned it to you?  
11 A. They call him "Rusty" Moore, but I believe his  
12 legal name is Russell Moore.  
13 Q. I'm -- I'm unclear.  
14 What did Rusty Moore mention to you?  
15 A. We had a conversation regarding the Jacaranda  
16 investigation, how he -- he basically told me that I was  
17 supposed to -- I'm probably going to be the one on the  
18 stand for a very long time because the witness is -- is  
19 recanting and kind of -- won't be on the stand too long.  
20 So we were just talking about the trial -- the upcoming  
21 trial.  
22 And he mentioned that you had contacted him on  
23 the telephone and that you had basically solicited any  
24 wrongdoing that I had done. And you had asked about a  
25 statement made by a detective, something in regards to

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♀

1 quote/unquote white people.  
2 And I told him --  
3 THE COURT REPORTER: I'm sorry.  
4 "Quote/unquote"?  
5 MR. GRESEN: "white people."  
6 THE COURT REPORTER: "white people." Thank you.  
7 THE WITNESS: And so I -- or he stated -- he told me  
8 that he told you that that conversation was recorded and  
9 was in the Arpiar investigation -- Arpiar interview.  
10 Q. BY MS. HUMISTON: Let me make this clear because  
11 I'm unclear from this.  
12 This DA, Rusty Moore, told you that I mentioned  
13 a statement regarding "white people"?  
14 A. Maybe -- maybe I could clarify for you.  
15 You mentioned -- you talked to him, and you said  
16 that you were asking him about a statement that was in  
17 the Arpiar Ter-Galastian interview which referenced  
18 Detective Howell stating something about "white people."  
19 Q. He told you I said that?  
20 MR. GRESEN: Asked and answered.  
21 Q. BY MS. HUMISTON: Is that correct?  
22 MR. GRESEN: And argumentative.  
23 Q. BY MS. HUMISTON: Is that correct?  
24 A. My answer -- my answer is yes. He told me that.  
25 Q. Wow.

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♀

Humiston excerpt

1           What else did he tell you I said?  
2       A.   He stated that you were persistent, were  
3       soliciting any wrongdoing even though he had told you  
4       there were procedures to follow in the district  
5       attorney's office. He told you -- he told me that he was  
6       shocked and surprised at your unprofessional behavior,  
7       and he told me to watch out because the district  
8       attorney's office was conducting an investigation on me,  
9       which no complaint was ever made.  
10      Q.   He told you the district attorney's office was  
11      conducting --  
12      A.   I'm sorry.  
13      Q.   -- a complaint on --  
14      A.   The city -- the city attorney's office was  
15      conducting an investigation on me when there was no  
16      complaint made.  
17      Q.   Did he mention that I had asked about a DA who  
18      had complained about you not giving a Miranda warning?  
19      A.   No. He didn't say a DA complained. He didn't  
20      say that.  
21      Q.   No.  
22           Did he say that I talked to him about a DA  
23      complaining about you not giving a Miranda warning?  
24      A.   No.  
25      Q.   He didn't mention that to you at all?

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1       MR. GRESEN: Asked and answered.  
2       THE WITNESS: Not a DA portion of it, no.  
3       Q.   BY MS. HUMISTON: well, what portion did he  
4       mention to you?  
5       A.   He stated that you were soliciting him about a  
6       conversation that wasn't Mirandized.  
7           And I told -- my answer to him was, "Like you  
8       know, Rusty," I said, "I'm not the detective in charge.  
9       I'm just there to assist. The detective in charge is the  
10      one that administrates most of these interviews with  
11      Miranda or not. It's up to them. I'm just an officer  
12      that's there to assist. If they would like to Mirandize,  
13      they do that."  
14           And he said, "well, I'm just telling you that  
15      she's asking me all sorts of these questions about  
16      conversations, about Miranda, and about everything else."  
17      Q.   Well, tell me what "everything else" is that he  
18      told you.  
19      A.   That's all he said. I don't know what it is.  
20      I -- I -- honestly, it didn't -- I didn't ask him.  
21      Q.   So did he say anything else to you during this  
22      conversation?  
23      A.   Yes, he did.  
24      Q.   What else?  
25      A.   He said that he advised you numerous times to

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♀

1      contact his chain of command, to write a letter so you  
2      can contact him or interview him, and that you were  
3      persistent and continued to ask him questions that were  
4      unnecessary even after he had told you to follow proper  
5      procedure.  
6      Q.   Did he tell you anything else during this  
7      conversation you haven't already told me?  
8      A.   He stated that it was his opinion that the  
9      Miranda wasn't necessary and didn't affect the case at

Humiston excerpt

10 hand, whether it was Mirandized or not.  
11 And he also stated that -- that he was going  
12 to -- him and I were going to meet regarding some other  
13 conversation or an interview that I had done that I had  
14 to basically translate to him. Like an audio- -- I think  
15 it was an audiotape that was in the car or something --  
16 something to that. I don't know. It was regarding the  
17 case.

18 And I just told him, "Okay. Just call me back,  
19 and we'll schedule a date."

20 Q. Have you told me everything that you and this  
21 district attorney, Rusty Moore, said during that  
22 conversation?

23 A. From what I can remember and to the best of my  
24 knowledge, yeah. I -- I don't -- I don't remember  
25 anything else that was said.

10

♀

1 Q. And when was this conversation?

2 A. This conversation was last wednesday. It was  
3 the last day that I listened to the conversation of Agasi  
4 Simonyan.

5 Q. That was the day you listened to the Agasi  
6 Simonyan interview?

7 A. Yes.

8 Q. Did you listen to any other interview that day?

9 A. That day, no.

10 Q. Have you spoken to Rusty Moore since?

11 A. I can't -- I can't recall. I know he called me.  
12 I called him back. I couldn't tell you if I actually  
13 physically -- or actually talked to him on the phone. I  
14 may have left him a message. I don't know.

15 Q. So if I understand you correctly, during that  
16 conversation, you didn't raise with him the "white  
17 people" comment. He raised it with you and said that I  
18 had raised it; correct?

19 MR. GRESEN: Compound. Unintelligible.

20 You -- in addition to the other standing  
21 objections.

22 You may answer.

23 THE WITNESS: He told me that you asked him about --  
24 about -- certain questions about the Jacaranda case. I  
25 don't know exactly what questions. And you had also

11

♀

1 asked him about a comment that Detective Howell had made  
2 regarding "white people." I don't know your conversation  
3 between him and -- you and him. It's what he told me.

4 Q. BY MS. HUMISTON: Is that the first time you  
5 ever spoke to Rusty Moore about this comment regarding  
6 "white people"?

7 A. Yes.

8 Q. Did you ever have any other conversation that  
9 you can recall from -- with Rusty Moore regarding the  
10 Chuck Howell "white people" comment?

11 A. No.

12 Q. When did you first become aware that Chuck  
13 Howell had made a "white people" comment?

14 A. During the interview.

15 Q. What, to the best of your memory, did Chuck  
16 Howell say?

17 A. I -- he's talking to one of the suspects. He  
18 says, "I know you're scared. Look at me. You can't even

Humiston excerpt  
19 lie to me. I want you to tell me the truth," or  
20 something -- something to that. Don't quote me. I'm --  
21 I'm going by memory. "Especially in Burbank, there's  
22 white people. They don't like it when they answer their  
23 door and they get shot. You're going to go down for  
24 this."

25 Q. When was the last time you listened to that

12

♀  
1 tape?

2 A. Approximately three weeks ago.

3 Q. Why?

4 A. The district attorney asked me to fill in the  
5 conversations of -- the Armenian conversations of that  
6 interview.

7 Q. And did you do that in writing, or how did you  
8 do that?

9 A. Yeah. What they did -- and I'll explain it to  
10 you so that I answer your question.

11 What they did is they send that document to a  
12 legal, certified transcriber. That individual only does  
13 the English language. They didn't send it to an  
14 individual that was bilingual in Armenian and English.

15 What he wanted me to do is look and read the  
16 entire transcription and fill in the Armenian portions  
17 that Arpiar and I had conducted together.

18 I advised him that I'm not a legal -- you know,  
19 even though I do get bilingual pay, I'm not a  
20 court-directed transcriber, but I'll fill it in as much  
21 as I can. And he said okay.

22 From there they were going to turn it in to  
23 somebody -- a state-certified transcriber in -- in the  
24 English -- in the Armenian language.

25 Q. So he indicated to you that he'd already read it

13

♀  
1 and knew -- he'd read the -- he'd read the English  
2 portion of the --

3 A. Yes.

4 Q. -- of the transcript, and he wanted you to do  
5 the Armenian portion?

6 A. I'm assuming he read it.

7 And this conversation is not by phone. This  
8 conversation was directed by Detective Robarts. I've  
9 never talked to Russell Moore. The only time that I  
10 talked to him was -- I'll correct -- I'll correct myself.  
11 Me and Robarts had a conference call with him.

12 Q. When?

13 A. Maybe a month ago.

14 Q. And then you had this conversation with him last  
15 Wednesday?

16 A. That's correct.

17 Q. And that was in person?

18 A. No. Over the phone.

19 Q. And when you spoke to Russell Moore -- Rusty  
20 Moore that day, did he tell you that he had just spoken  
21 to me that day?

22 A. No. He said he spoke to you about a week ago.  
23 He said exactly a week from the time that I was talking  
24 to him, in the afternoon -- late afternoon.

25 Q. So when you're saying "Wednesday," you're

14

Humiston excerpt

1 talking about yesterday?  
2 A. No, no, no.  
3 The following -- the Wednesday prior.  
4 Q. So you had a conversation with him last  
5 Wednesday?  
6 A. Not yesterday. The week prior from yesterday.  
7 Q. Okay. So that would have been the -- 30th --  
8 19th -- the 17th. No. Excuse me. The 27th.  
9 Okay. Well, so it was not -- this is a  
10 Thursday. It wasn't yesterday. It was the week before  
11 you had the conversation with Rusty Moore on a Wednesday,  
12 and he let you know it was one week before that that he'd  
13 had a conversation with me?  
14 A. That's correct.  
15 Q. Now, back to my initial question because I'm not  
16 sure if you understood it and we got it through -- the  
17 record clear.  
18 Did you ever tell Rusty Moore that the detective  
19 assigned to the Jacaranda murder investigation, Angelo  
20 Dahlia, had made anti-Armenian comments?  
21 A. No.  
22 Q. Why not?  
23 A. Angelo Dahlia never made anti-Armenian -- never  
24 made anti-Armenian comments in the Jacaranda case.  
25 Q. But you had heard him make them many times

15

♀

1 before; correct?  
2 A. But I had complained about them many times. It  
3 didn't matter when he made it.  
4 Q. But -- but as --  
5 A. It wasn't specific to the case.  
6 Q. Okay. But as a police officer involved in an  
7 investigation where the criminal defendant is Armenian  
8 and the detective assigned has made inappropriate,  
9 discriminatory comments regarding Armenians, did you feel  
10 you had a Brady obligation to disclose that --  
11 A. I --  
12 Q. -- to the district attorney?  
13 A. Oh, I did. To my lieutenant.  
14 Q. No. To the district attorney.  
15 A. No, I did not.  
16 MR. GRESEN: I'd like to take a break and go talk to  
17 the judge, please.  
18 MS. HUMISTON: Well, why don't we bring him in so he  
19 can hear the questions.  
20 MR. GRESEN: Well, I'd just like to go tell him about  
21 this last 15 minutes of questioning about something that  
22 happened a week ago.  
23 MS. HUMISTON: Well, it hasn't been 15 minutes, but  
24 all right.  
25 THE VIDEOGRAPHER: Off the record?

16

♀

1 We'll go off the videotape record at 2:16 p.m.  
2 (Conclusion of partial deposition transcript.)  
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1 STATE OF CALIFORNIA                    )  
2 COUNTY OF LOS ANGELES                ) ss.  
3

4 I, Susan C. Campana, a certified shorthand  
5 reporter in and for the state of California do hereby  
6 certify:

7 That the foregoing proceedings for the partial  
8 deposition transcript were taken before me at the time  
9 and place therein set forth, at which time the witness  
10 was put under oath by me;

11 That the deposition was recorded  
12 stenographically by me and was thereafter transcribed  
13 into typewriting under my direction and supervision and  
14 contains a true and correct transcript of my shorthand  
15 notes so taken.

16 I further certify that I am not related to any  
17 party to said action, nor in any way interested in the  
18 outcome thereof.

19  
20 IN WITNESS WHEREOF, I have hereunto subscribed  
21 my name this 8th day of February, 2010.  
22  
23  
24

SUSAN C. CAMPANA, CSR NO. 9573

25

18

## **EXHIBIT C**

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 31

HON. ALAN S. ROSENFELD, JUDGE

CHRISTOPHER LEE DUNN,

PLAINTIFF,

VS.

BURBANK POLICE DEPARTMENT, ET  
AL.,

DEFENDANT.

**CERTIFIED COPY**

CASE NO. BC417928

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
FEBRUARY 4, 2010

APPEARANCES:

FOR PLAINTIFF:

LAW OFFICES OF RHEUBAN & GRESEN  
BY: SOLOMON E. GRESEN, ESQ.  
15910 VENTURA BOULEVARD  
SUITE 1610  
ENCINO, CALIFORNIA 91436  
818-815-2727

FOR DEFENDANT:

CITY OF BURBANK  
BY: CAROL A. HUMISTON, ESQ.  
275 EAST OLIVE AVENUE  
BURBANK, CALIFORNIA 91510-6459  
818-238-5707

REPORTED BY:

KATHLEEN SMITH-MYLER, CSR NO. 12500  
OFFICIAL REPORTER



1 CASE NUMBER: BC417928  
2 CASE NAME: DUNN V. CITY OF BURBANK  
3 LOS ANGELES, CALIFORNIA THURSDAY, FEBRUARY 4, 2010  
4 DEPARTMENT 31 ALAN S. ROSENFELD, JUDGE  
5 REPORTER: KATHLEEN SMITH-MYLER  
6 TIME: P.M.  
7 APPEARANCES:  
8 SOLOMON GRESEN, ESQ., REPRESENTING PLAINTIFF  
9 CHRISTOPHER DUNN; CAROL A. HUMISTON, CITY  
10 ATTORNEY, REPRESENTING DEFENDANT CITY OF  
11 BURBANK.  
12  
13  
14 THE COURT: ON THE RECORD IN DUNN VERSUS BURBANK.  
15 MR. GRESEN: SOLOMON GRESEN APPEARING ON BEHALF OF  
16 PLAINTIFF.  
17 MS. HUMISTON: CAROL HUMISTON ON BEHALF OF BURBANK  
18 POLICE DEPARTMENT.  
19 THE COURT: YESTERDAY, COUNSEL WHO ARE PRESENT  
20 TODAY ACCEPTED THE COURT'S OFFER TO HAVE A CONFERENCE  
21 CALL, TELEPHONIC CONFERENCE CALL -- AND IT WAS MY LUCKY  
22 DAY. I GOT NOT ONE BUT TWO IN THE AFTERNOON  
23 YESTERDAY -- TO ATTEMPT TO DEAL WITH ISSUES GOING ON IN  
24 THE TAKING OF A PARTICULAR DEPOSITION.  
25 AND I'M SORRY. I FORGOT THE DEPONENT'S  
26 NAME.  
27 MR. GRESEN: STEVE KARAGIOSIAN,  
28 K-A-R-A-G-I-O-S-I-A-N.

1       **THE COURT:** OKAY. THE COURT WAS MINDEFUL THAT  
2 THERE HAD BEEN SOME OBJECTIONS RAISED AND SOME CONCERNS  
3 RAISED BY THE PLAINTIFF'S COUNSEL WITH REGARD TO THE  
4 SCOPE OF DEPOSITION, LENGTH OF DEPOSITION, AND TO SOME  
5 DEGREE, THE MANNER OF THE DEPOSITION.

6               AND AFTER THE FIRST PHONE CALL, I GAVE SOME  
7 GUIDANCE TO ALLOW FOR -- TO ALLOW THE DEFENSE TO GO INTO  
8 SUBJECT MATTERS PERTAINING TO THINGS OR FACTS THAT WERE  
9 AFTER THE DATE OF THE PLAINTIFF IN THIS CASE,  
10 MR. DUNN'S, TERMINATION DATE.

11               BASED UPON THE SHOWING AND THE CONFERENCE  
12 CALL THAT WE HAD, I ALLOWED IT, AND I SUGGESTED THAT  
13 ABOUT 20 MINUTES WOULD PROBABLY BE ADEQUATE FOR THAT. I  
14 DID NOT HOWEVER, MAKE AN ORDER.

15               AT THE SECOND PHONE CALL THERE SEEMED TO BE  
16 MORE ANGST OVER THE PROCESS, AT WHICH TIME I INVITED  
17 COUNSEL TO CONTINUE THE DEPOSITION IN THE JURY  
18 DELIBERATION ROOM OF THIS COURTROOM TODAY, WHICH THEY  
19 HAVE DONE STARTING AT ABOUT 1:30.

20               COUNSEL CAME TO THE COURT IN CHAMBERS --  
21 CERTAINLY AT THE COURT'S INVITATION AND THEIR CONSENT --  
22 BY THE WAY, THIS WAS ALL AGREED UPON BY THE PARTIES. I  
23 DIDN'T ISSUE AN ORDER. I ISSUED AN INVITATION.

24               ANYWAY, THEY HAVE RAISED TO ME THE SUBJECT  
25 THAT PART OF WHAT'S BEEN GOING ON IN THE DEPOSITION OF  
26 THIS DEPONENT ESSENTIALLY APPEARS TO BE IRRELEVANT,  
27 UNDULY TIME CONSUMING.

28               AND ALTHOUGH I'M NOT SURE THAT I AGREE WITH

1 IT AFTER HEARING THE TAPE, WHICH I'LL MAKE A RECORD OF  
2 IN JUST A MINUTE, I DON'T BELIEVE THAT THE ATTORNEY  
3 CONDUCT WAS IN ANY SENSE INAPPROPRIATE, AT LEAST FROM  
4 WHAT I HEARD.

5 MR. GRESSEN: MAY I BE HEARD?

6 THE COURT: IN A SECOND, OF COURSE YOU CAN.

7 THE COURT DISCUSSED WITH COUNSEL THAT I  
8 WOULD ACTUALLY WATCH THIS PORTION OF THE DEPOSITION  
9 WHICH COMMENCED THIS AFTERNOON AT PROBABLY CLOSE TO  
10 2:00 O'CLOCK. BUT THERE IS A VIDEO DEPOSITION AND THE  
11 VIDEO DEPOSITION TIMEFRAME SHOWS STARTING AT ABOUT 2:01  
12 AND ENDING AT ABOUT 2:20, I THINK. ACTUALLY 2:15.

13 MR. GRESSEN: 16.

14 THE COURT: 2:16. AND FOR THE RECORD, THAT IS THE  
15 PORTION THAT I VIEWED IN THE JURY DELIBERATION ROOM ON  
16 WHAT WOULD BE -- WE USED TO CALL IT "READBACK." NOW  
17 IT'S CALLED "PLAYBACK." AND THAT WAS WITHOUT COMMENT OR  
18 ARGUMENT OR DISCUSSION.

19 I THEN ASKED COUNSEL, GEE, IF WE HAVE TO  
20 MAKE A RECORD OF WHAT WE'RE DOING, SHOULD WE DO IT BASED  
21 UPON THE RECORD OF THE DEPOSITION REPORTER, OR SHOULD I  
22 DO IT BASED UPON THE COURT'S RECORD WITH THE DULY  
23 ASSIGNED, CERTIFIED, AND EMPLOYED COURT REPORTER AND,  
24 AFTER SEEKING INPUT OF COUNSEL, DECIDED IT WOULD BE BEST  
25 TO MAKE THE RECORD OF WHAT MY INVOLVEMENT IS AT THIS  
26 STAGE HERE IN THE COURTROOM IN OPEN COURT WITH MY COURT  
27 REPORTER. AND I BELIEVE WE ALL AGREED AT LEAST TO DO  
28 THAT.

1                   NOW, HAVING SAID THAT, I THINK THERE IS  
2 MORE TO TALK ABOUT.

3                   ANY ADDITIONAL INPUT ON THE METHODOLOGY OR  
4 THE PROCESS, MS. HUMISTON?

5           **MS. HUMISTON:** THIS PROCESS WE'RE DOING HERE? NO,  
6 YOUR HONOR. I'M PERFECTLY FINE WITH IT.

7           **MR. GRESEN:** I AGREED TO IT.

8           **THE COURT:** NOW, LET'S GET TO THE MERITS OF OUR  
9 ISSUES AND CONCERNS FOR THE RECORD.

10          **MR. GRESEN:** YOUR HONOR, WHAT YOU JUST WITNESSED  
11 IN THAT 15 MINUTES WAS A VIOLATION OF THE LAW, A  
12 VIOLATION OF A POLICE OFFICER'S PROCEDURAL BILL OF  
13 RIGHTS.

14                   MS. HUMISTON, AS AN AGENT OF THE CITY, JUST  
15 QUESTIONED AN OFFICER WHO HAS NOT BEEN CHARGED, WITHOUT  
16 HIS CHOSEN LEGAL DEFENSE FUND REPRESENTATIVE TO  
17 REPRESENT HIM, ABOUT MISCONDUCT THAT HE MAY HAVE  
18 COMMITTED ON HIS JOB AND BECAUSE IT'S TALKING ABOUT NOT  
19 MIRANDIZING A SUSPECT.

20                   AND BY DOING SO OUTSIDE OF THE APPROPRIATE  
21 CONFINES OF THE VERY NARROW STRICTURES BY THE POLICE  
22 OFFICERS' PROCEDURAL BILL OF RIGHTS, SHE HAS JUST, ONCE  
23 AGAIN, CREATED ADDITIONAL LIABILITY FOR THE DEPARTMENT  
24 IN THE RODRIGUEZ V. BURBANK CASE.

25                   NOW, THE PROPRIETY OF ASKING QUESTIONS  
26 ABOUT A MATTER THAT TOOK PLACE BETWEEN THREE WEEKS AGO  
27 AND A WEEK AGO, WHEN MR. DUNN WAS FIRED IN 2008, IS  
28 WHOLLY INAPPROPRIATE. IT'S IRRELEVANT. AND

1 MR. KARAGIOSIAN, OFFICER KARAGIOSIAN, HAS PROBABLY VERY  
2 LITTLE TO SAY ABOUT OFFICER DUNN'S CASE.

3 THEY'RE USING THIS AS A VEHICLE TO GO BACK  
4 AND CONTINUE TO QUESTION HIM EVEN THOUGH HIS DEPOSITION  
5 WAS ALREADY TAKEN OVER TWO DAYS IN THE OTHER CASE, THE  
6 COMPANION CASE, RODRIGUEZ V. BURBANK.

7 AND I BELIEVE THE TESTIMONY ADDUCED  
8 CONCERNED MISCONDUCT BY THIS VERY ATTORNEY IN DISCUSSING  
9 AN ONGOING INVESTIGATION WITH A SITTING DISTRICT  
10 ATTORNEY WHO ADVISED HER THAT SHE SHOULDN'T BE ASKING  
11 ABOUT MR. -- OFFICER KARAGIOSIAN'S MISCONDUCT.

12 YOU HEARD IT. THE RECORD IS WHAT THE  
13 RECORD IS. I THINK IT'S A WHOLLY INAPPROPRIATE LINE OF  
14 QUESTIONING. I LET IT GO ON WITHOUT SUBSTANTIAL  
15 OBJECTIONS JUST SO WE COULD CREATE A CLEAR RECORD.

16 AND I THINK, BASED UPON THAT TESTIMONY,  
17 MS. HUMISTON HAS DEMONSTRATED SHE SHOULDN'T BE THE ONE  
18 ASKING THE QUESTIONS IN THIS CASE.

19 IF SHE IS A TORTFEASOR AND SHE'S COMMITTING  
20 ADDITIONAL VIOLATIONS OF THE LAW DURING THE DEPOSITION  
21 AND SHE'S COMMITTING THOSE VIOLATIONS FOR COMPLETELY  
22 IRRELEVANT TOPIC THAT HAS NOTHING TO DO WITH OFFICER  
23 DUNN, I JUST BELIEVE THAT THERE SHOULD BE SOME SORT OF  
24 ORDER IN PLACE RESTRAINING THE TYPE OF CONDUCT AND  
25 RESTRAINING THE ATTORNEYS IN THIS DEPOSITION FROM  
26 INQUIRING AS TO MATTERS THAT ARE UNRELATED TO OFFICER  
27 DUNN THAT OCCURRED AFTER HIS TERMINATION IN 2008.

28 AND THE FIRST FIFTEEN MINUTES OF THIS

1 DEPOSITION WAS ALL ABOUT A CONVERSATION THAT HAPPENED A  
2 WEEK AGO WEDNESDAY.

3 AND I WOULD SUBMIT, YOUR HONOR, ON THAT,  
4 THAT IT'S INAPPROPRIATE, AND THE COURT -- WE WOULD  
5 REQUEST THAT THE COURT FASHION AN ORDER TO GRANT RELIEF,  
6 IF NOT OUTRIGHT, BASED UPON THE SUBJECT OF THE TESTIMONY  
7 DISQUALIFYING MS. HUMISTON FOR HER INVOLVEMENT WITH  
8 TRYING TO TAMPER -- NOT TAMPER WITH WITNESSES, BUT  
9 AFFECT THE WITNESS'S -- I MEAN, IF WHAT OFFICER  
10 KARAGIOSIAN SAID IS TRUE, MS. HUMISTON JUST WENT AND  
11 TRIED TO ADVERSELY IMPACT ONE OF MY WITNESSES IN THIS  
12 CASE BY GETTING HIM IN TROUBLE THROUGH AN INVESTIGATION  
13 AND WITH THE D.A.'S OFFICE.

14 YOU CAN'T HAVE THAT, YOUR HONOR. IT'S JUST  
15 INAPPROPRIATE. IT'S UNFAIR. AND THAT'S WHY I KEEP  
16 COMING TO YOU AND SAYING HELP ME. I NEED YOUR HELP IN  
17 THIS MATTER.

18 AND I WOULD SUBMIT ON THIS.

19 THE COURT: MS. HUMISTON.

20 MS. HUMISTON: AT THE BEGINNING OF YESTERDAY'S  
21 DEPOSITION, I STATED ON THE RECORD THAT, IF  
22 OFFICER KARAGIOSIAN IS NOT GOING TO TALK ABOUT HIS CLAIM  
23 OF DISCRIMINATION IN THE DUNN CASE, I DON'T WANT TO  
24 DEPOSE HIM. I DON'T WANT TO WASTE MY TIME. AND HE  
25 WOULDN'T AGREE TO THAT. COUNSEL WOULDN'T AGREE TO THAT.

26 AS FOR TODAY, I'M AS SHOCKED BY THAT  
27 TESTIMONY AS ANYONE. ALL I CAN SAY TO YOU IS I HAVE  
28 REASON TO BELIEVE IT'S FALSE.

1                   BUT MY TESTIMONY IS UNNECESSARY ON THAT. I  
2       ASKED A SIMPLE QUESTION: "WHY DIDN'T YOU TELL THE D.A.  
3       THAT THIS MAN WHO IS MAKING THESE ANTI-ARMENIAN  
4       COMMENTS, WHO IS THE DETECTIVE IN THE JACARANDA MURDER  
5       CASE, THAT YOU HAD HEARD THESE INAPPROPRIATE COMMENTS  
6       BEING MADE?"

7                   AND THAT'S WHEN I HEARD THIS TESTIMONY THAT  
8       SURPRISED ME, I HAVE TO ADMIT. I THINK IT'S RELEVANT.  
9       IF HE'S NOT TELLING THE TRUTH, IT'S FALSE TESTIMONY  
10      UNDER OATH. AND -- I'M IN SHOCK. I DON'T THINK I  
11      DESERVE -- I'M NOT EVEN --

12                  **THE COURT:** I'M SORRY? I CAN'T HEAR YOU.

13                  **MS. HUMISTON:** I'M NOT EVEN GOING TO ADDRESS  
14      DISQUALIFICATION ISSUES. ALL I CAN SAY IS I ASKED A  
15      SIMPLE RELEVANT QUESTION. I GOT OTHER INFORMATION, AND  
16      I FOLLOWED IT TO GET THE WHOLE STORY, PRESUMABLY WHAT HE  
17      CLAIMS TO BE THE TRUTH.

18                  **THE COURT:** ALL RIGHT.

19                                  ANYTHING FURTHER?

20                  **MS. HUMISTON:** NO.

21                  **MR. GRESEN:** I WOULD JUST LIKE TO POINT OUT THAT I  
22      DON'T BELIEVE MS. HUMISTON ADDRESSED WHAT WENT ON THERE.  
23      IF SHE'S SAYING THAT'S UNTRUE, THAT WOULD BE A TRIABLE  
24      ISSUE, OBVIOUSLY.

25                                  IF IT COMES DOWN TO IT, SHE CAN BE A  
26      WITNESS NOW. IF THEY TRY TO IMPEACH BASED UPON THIS --  
27      AND REMEMBER, YOUR HONOR, THE WHOLE LINE OF QUESTIONING  
28      AROSE BECAUSE SHE WAS ASKING ABOUT A MATTER THAT

1 HAPPENED THREE WEEKS AGO WHICH HAD NOTHING TO DO WITH  
2 THAT.

3 I'LL SUBMIT.

4 THE COURT: ALL RIGHT. THE COURT IS MINDFUL OF  
5 SEVERAL THINGS:

6 NUMBER ONE, I'M NOT BEING CALLED UPON TO  
7 EVALUATE WHETHER OR NOT THERE HAS BEEN EITHER AN  
8 ADMINISTRATIVE OR ACTIONABLE VIOLATION OF A PEACE  
9 OFFICER'S BILL OF RIGHTS. NOR DO I KNOW WHAT, IF ANY,  
10 LITIGATION PRIVILEGE MIGHT ATTACH TO THAT IN THE CONTEXT  
11 OF PRIVILEGES.

12 MY CONCERN AT THIS STAGE IS ESSENTIALLY FOR  
13 TWO OR THREE MATTERS: ONE, IS TO AVOID AN UNDUE  
14 CONSUMPTION OF TIME IN THE DEPOSITION PROCESS WITH  
15 QUESTIONS THAT COULD ARGUABLY BE DEEMED TO BE  
16 IRRELEVANT.

17 THE SECOND IS TO BALANCE THE NEED OF THE  
18 CITY TO OBTAIN TESTIMONY THAT MIGHT LEAD TO RELEVANT --  
19 RELEVANT EVIDENCE IN THE CASE.

20 ONE OF THE PROBLEMS, OF COURSE, IN THAT  
21 WHOLE PROCESS IS ESSENTIALLY VERY SIMILAR TO THE SUPREME  
22 COURT, U.S. SUPREME COURT, JUSTICE'S FAMOUS COMMENT  
23 YEARS AGO. WHEN ASKED TO DEFINE PORNOGRAPHY, HIS FAMOUS  
24 COMMENT WAS, "I CAN'T DEFINE IT, BUT I KNOW IT WHEN I  
25 SEE IT" -- COMING FROM A SUPREME COURT JUSTICE.

26 WELL, THE SAME ANALOGY, I THINK, DRAWS TO  
27 TRYING TO EVALUATE THE DISTINCTION BETWEEN THE BROAD  
28 DISCRETION GIVEN TO PARTIES AND THEIR ATTORNEYS IN CIVIL



1 DISCOVERY. AND WHETHER OR NOT SOMETHING EXCEEDS THOSE  
2 BOUNDS IS QUITE LITERALLY SOMETHING THAT YOU ALMOST  
3 CAN'T DEFINE IT, BUT YOU SORT OF KNOW IT WHEN YOU SEE  
4 IT. IT'S ALWAYS WITHIN THE CONTEXT OF FACTS AND  
5 PROCEDURE AND LAW THAT YOU'RE LOOKING AT.

6 NOW, YESTERDAY, APPARENTLY THESE PROBLEMS  
7 WERE STARTING TO OCCUR DURING THE FIRST PART OF THE  
8 DEPOSITION WITH THIS DEPONENT WHICH IS WHAT BROUGHT US  
9 HERE TODAY.

10 I SAW TODAY 15 MINUTES OF PLAYBACK OF THE  
11 VIDEOGRAPHER'S FIRST 15 MINUTES OF THIS AFTERNOON'S  
12 SESSION WITH THE DEPONENT. AND I HONESTLY HAVE TO SAY  
13 THAT I'M GOING TO SUSTAIN THE PLAINTIFF'S OBJECTION.

14 I FIND THAT THIS QUESTIONING FOR  
15 CONVERSATIONS AND THINGS THAT ARE HAPPENING WITHIN THE  
16 LAST TWO TO THREE WEEKS IS FACIALLY IRRELEVANT. AND  
17 NOTHING THAT I HAVE HEARD HERE IS DESIGNED OR AIMED AT  
18 ANY SORT OF DISCOVERY THAT WOULD RESULT IN ADMISSIBLE  
19 EVIDENCE IN THIS CASE.

20 I WILL SUSTAIN THE OBJECTION AT THIS POINT,  
21 AND I WILL FASHION A REMEDY THAT IS -- COUNSEL IS NO  
22 LONGER ALLOWED TO ASK ANY QUESTIONS AT ALL PERTAINING TO  
23 POST-TERMINATION DATES, THE POST-TERMINATION DATE OF THE  
24 PLAINTIFF IN ACTION, MR. DUNN.

25 I HAD HOPED THAT WE WOULDN'T BE PLACED IN  
26 THIS POSITION, BUT I SAW 15 MINUTES OF VIDEO WHICH WE  
27 HAVE NOTED FOR THE RECORD AS BASICALLY THE FIRST 15  
28 MINUTES OF THIS AFTERNOON'S SESSION OF THE DEPOSITION.

1           **MR. GRESSEN:** OFFICER KARAGIOSIAN'S SECOND SESSION  
2 OF THE DEPOSITION FROM 2:01 P.M. TO 2:16 P.M., FOR THE  
3 RECORD.

4           **THE COURT:** AND I THINK THAT THE COURT REPORTER IN  
5 THE DEPOSITION MADE A NOTE WHEN I CAME IN; SO THERE WILL  
6 BE AT LEAST SOME CHRONOLOGY ON IT EVEN THOUGH I DIDN'T  
7 TAKE ANY ACTION. I SIMPLY OBSERVED THE VIDEO IN LIEU OF  
8 HAVING READBACK.

9                   IT IS MOST UNFORTUNATE, BUT I BELIEVE THE  
10 CITY, AT THIS POINT, IS WELL BEYOND THE BOUNDS OF  
11 RELEVANCY IN THE SEARCH FOR THIS EVIDENCE. AND I MUST  
12 REGRETTABLY CONCUR THAT THIS WOULD APPEAR TO BE THE ONLY  
13 SOLUTION THAT I COULD IMPOSE, AND IT'S CERTAINLY A MUCH  
14 LESSER SANCTION THAN OTHERS THAT COULD BE IMPOSED.

15                   I WOULD ADMONISH COUNSEL TO TRY TO BE  
16 FOCUSED AND NOT UNDULY CONSUMPTIVE OF THE TIME OF  
17 EVERYBODY IN LOOKING FOR COLLATERAL ISSUES FOR PURPOSES  
18 OF IMPEACHMENT OR CREDIBILITY, AS I FEEL THAT THAT'S  
19 BEEN DEMONSTRATED BY WHAT I SAW AS SIMPLY NOT BEING  
20 RELEVANT.

21                   KEEP IN MIND I'M BASING THIS ON A RELEVANCE  
22 DETERMINATION, AND THIS COURT WILL NOT ENGAGE IN  
23 EVALUATION OF AD HOMINEM CRITICISMS OF ANYBODY.

24                   I JUST DON'T THINK IT'S RELEVANT, AND I  
25 HAVEN'T SEEN ANY DEMONSTRATION THAT -- I'M DISAPPOINTED,  
26 OF COURSE, THAT WE HAD TO GET TO THIS POINT, BUT THAT'S  
27 WHERE IT IS.

28                   SO YOU MAY RESUME YOUR DEPOSITION.

1 MS. HUMISTON: IF COULD I JUST GET GUIDANCE, YOUR  
2 HONOR. SO THEN, INCIDENTS AFTER THE DATE OF TERMINATION  
3 I WILL NOT BE CONDUCTING DISCOVERY ON?

4 THE COURT: I DIDN'T SAY THAT. YOU CAN CONDUCT  
5 DISCOVERY. YOU JUST CAN'T DO IT IN THIS DEPOSITION.

6 MS. HUMISTON: OH. THAT'S WHAT I MEAN, YOUR  
7 HONOR. I --

8  
9 (SIMULTANEOUS COLLOQUY.)

10  
11 THE COURT: YOU KNOW WHAT, COUNSEL? YOU'RE THE  
12 ONE THAT LIKES TO BE EXTREMELY PRECISE IN THE COMMENTS.  
13 SO DON'T MISCHARACTERIZE WHAT I SAID.

14 THAT'S IT. IN THIS DEPOSITION YOU ARE  
15 BARRED BY ANYTHING POST-TERMINATION DATE.

16 MS. HUMISTON: THAT'S WHAT I WANTED TO CLARIFY.  
17 THANK YOU, YOUR HONOR.

18 THE COURT: YOU'RE WELCOME.

19  
20 (WHEREUPON THE MATTER WAS  
21 CONCLUDED.)

22  
23 -000-

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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT 31

HON. ALAN S. ROSENFELD, JUDGE

4  
5 CHRISTOPHER LEE DUNN, )

6 PLAINTIFF, )

7 VS. )

CASE NO. BC417928

8 BURBANK POLICE DEPARTMENT, ET )  
9 AL., )

10 DEFENDANT. )  
11

12 REPORTER'S CERTIFICATE

13 I, KATHLEEN SMITH-MYLER, OFFICIAL COURT  
14 REPORTER OF THE SUPERIOR COURT OF THE STATE OF  
15 CALIFORNIA FOR THE COUNTY OF LOS ANGELES, DO HEREBY  
16 CERTIFY THAT THE FOREGOING PAGES COMPRISE A FULL, TRUE,  
17 AND CORRECT TRANSCRIPT OF THE PROCEEDINGS TAKEN IN THE  
18 ABOVE-ENTITLED CAUSE ON FEBRUARY 4, 2010.

19 DATED FEBRUARY 7, 2010.

20  
21   
22 KATHLEEN SMITH-MYLER, CSR 12500  
23 OFFICIAL COURT REPORTER  
24  
25  
26  
27  
28

## **EXHIBIT D**

LAW OFFICES OF  
**RHEUBAN & GRESEN**  
15910 VENTURA BOULEVARD  
SUITE 1610  
ENCINO, CALIFORNIA 91436  
TELEPHONE: (818) 815-2727  
FACSIMILE: (818) 815-2737

STEVEN V. RHEUBAN  
SOLOMON E. GRESEN

STEVEN M. CISCHE  
ROBERT C. HAYDEN  
JOSEPH M. LEVY  
INDIA S. THOMPSON

April 7, 2010

*Via Facsimile to (213) 236-2700 and US Mail*

Kristin A. Pelletier, Esq.  
Burke, Williams & Sorensen, LLP  
444 South Flower Street, Suite 2400  
Los Angeles, California 90071

*Via Facsimile to (818) 238-5724 and US Mail*

Carol Ann Humiston, Esq.  
Senior Assistant City Attorney  
Office of the City Attorney  
275 East Olive Avenue  
Burbank, California 91510-6459

***Re: Rodriguez, et al v. City of Burbank, et al.***  
***LASC Case No. BC 414 602***

Dear Counsel:

Solomon Gresen received a telephone message from Ms. Pelletier regarding the deposition of Russell Moore, which has been noticed for Friday, April 11, in the referenced action. Mr. Gresen has attempted to return Ms. Pelletier's call in order to meet and confer regarding our objections to Mr. Moore's deposition.

Judge Rosenfeld has already ruled that questions regarding Mr. Moore were irrelevant and not calculated to lead to the discovery of admissible evidence. The noticing of Mr. Moore's deposition in the Rodriguez case is a blatant attempt to circumvent Judge Rosenfeld's ruling.

If you would like to discuss this matter, please give Mr. Gresen a call. If we are unable to resolve the matter, we will file a motion for a protective order tomorrow afternoon.

Thank you for your courtesy and cooperation.

Very truly yours,

LAW OFFICES OF RHEUBAN & GRESEN

*Steven M. Cischke*

Steven M. Cischke

## **EXHIBIT E**



CITY OF BURBANK  
OFFICE OF THE CITY ATTORNEY

275 East Olive Avenue • P.O. Box 6459 • Burbank, California 91510-6459  
818.238.5700 • 818.238.5724 FAX

DENNIS A. BAPLOW  
City Attorney

JULIE CHRISTINE SCOTT  
Chief Assistant City Attorney

VIA Facsimile

April 8, 2010

Writers Direct Dial  
(818)238-6707

Steven M. Cischke  
Solomon E. Gresen  
Law Offices of Rheuban & Gresen  
15910 Ventura Boulevard, Suite 1610  
Encino, California 91436

Re: Deposition of Russell Moore

Dear Mr. Cischke and Mr. Gresen,

I am in receipt of your facsimile of today's date, indicating an objection to the deposition of Russell Moore, which is set for tomorrow. Your letter indicates that taking Mr. Moore's deposition would violate Judge Rosenfield's order. That is not true. Judge Rosenfield's order not only did not address this issue, it was limited to the Dunn case. Judge Rosenfield did not and could not make any orders in the Rodriguez case, which is the case in which the City noticed Mr. Moore's deposition. If you were confused about this because of Ms. Pelletier's involvement, this will confirm that, as reflected in the notice, this deposition will take place in the Rodriguez case (Ms. Pelletier will be associating in as counsel in this case for this one limited purpose given the conflicts of other counsel). Mr. Moore's deposition is clearly relevant in the Karagiosian case, given Steve Karagiosian's allegations of retaliation by the City of Burbank, in general, and in particular, given his recent complaint that my conversation with Mr. Moore was another instance of such retaliation. It is also plainly relevant to Steve Karagiosian's credibility, which is also at issue in his lawsuit.

Please be advised that the City intends to go forward with the deposition as scheduled. Since you have refused to accede to Mr. Moore's request that the deposition be moved to Burbank for his convenience, the deposition will take place in Los Angeles as noticed.

Sincerely,

A handwritten signature in black ink, appearing to read "Carol Ann Humiston".

Carol Ann Humiston  
Senior Assistant City Attorney



DENNIS A. BARLOW, CITY ATTORNEY  
State Bar No. 63849  
CAROL A. HUMISTON, SR. ASST. CITY ATTY.  
State Bar No. 115592  
275 East Olive Avenue  
Burbank, California 91502  
Telephone: (818) 238-5707  
Facsimile: (818) 238-5724

LINDA MILLER SAVITT (SBN 094164)  
BALLARD, ROSENBERG, GOLPER & SAVITT LLP  
500 North Brand Boulevard, Twentieth Floor  
Glendale, California 91203-9946  
Telephone: (818) 508-3700  
Facsimile: (818) 506-4827

LAWRENCE A. MICHAELS (SBN 107260)  
MITCHELL SILBERBERG & KNUPP LLP  
11377 West Olympic Boulevard  
Los Angeles, California 90064-1683  
Telephone: (310) 312-2000  
Facsimile: (310) 312-3100

Attorneys for Defendant and Cross-Complainant  
CITY OF BURBANK, including the POLICE  
DEPARTMENT OF THE CITY OF BURBANK  
(erroneously sued as an independent entity named  
"BURBANK POLICE DEPARTMENT")

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

STEVE KARAGIOSIAN,  
Plaintiff,

v.

BURBANK POLICE DEPARTMENT; CITY  
OF BURBANK; and DOES 1 through 100,  
inclusive,

Defendants.

Case No. BC 414602

Judge: Hon. Joanne O'Donnell  
Dept.: 37

File Date: May 28, 2009  
Trial Date: August 25, 2010


NOTICE OF ASSOCIATION OF  
COUNSEL

1 TO ALL PARTIES AND THEIR COUNSEL OF RECORD;

2 PLEASE TAKE NOTICE that defendant CITY OF BURBANK hereby associates in as  
3 counsel, Kristin Pelletier, Burke, Williams & Sorenson, 444 S. Flower Street, Suite 2400, Los  
4 Angeles, CA 90071, (213) 236-0600, facsimile (213) 236-2700.

5 DATED: April 8, 2010

6 DENNIS A. BARLOW  
7 City Attorney

8  
9 By:   
10 Carol Ann Humiston  
11 Attorneys for Defendant  
12 CITY OF BURBANK, including the  
13 POLICE DEPARTMENT OF THE  
14 CITY OF BURBANK (erroneously sued  
15 as an independent entity named  
16 "BURBANK POLICE DEPARTMENT")  
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**PROOF OF SERVICE**  
F.R.C.P. 5 / C.C.P. 1013a(3)/ Rules of Court, Rule 2060

I am a resident of, or employed in the County of Los Angeles, State of California. I am over the age of 18 years old and not a party to the within action. My business address is 275 E. Olive Avenue, Burbank, California 91502.

On April 8, 2010, I served the following listed document(s), **Notice of Association of Counsel** by method indicated below, on the party in this action:

Solomon E. Gresen  
Steven V. Rheuban  
Law Offices of Rheuban & Gresen  
15910 Ventura Boulevard, Suite 1610  
Encino, California 91436

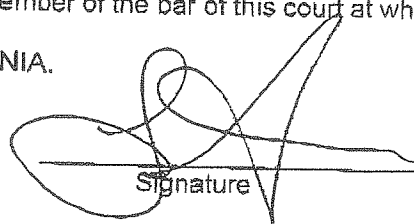
<p><input checked="" type="checkbox"/> <b>BY U.S. MAIL</b></p> <p>By placing <input type="checkbox"/> the original / <b>XX</b> a true copy thereof enclosed in a sealed envelope(s), with postage prepaid, addressed as per the attached service list, for collection and mailings at the City of Burbank in Burbank, California following ordinary business practices. I am readily familiar with the firm's practice for collection and processing of the document for mailing. Under that practice, the document is deposited with the United States Postal Service on the same day in the ordinary course of business. I am aware that upon motion of any party served, service is presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after date of deposit for mailing contained in this affidavit.</p>	<p><input type="checkbox"/> <b>BY ELECTRONIC SERVICE</b> (via electronic filing service provider)</p> <p>By electronically transmitting the document(s) listed above to LexisNexis File and Serve, an electronic filing service provider, at <a href="http://www.fileandserve.lexisnexis.com">www.fileandserve.lexisnexis.com</a> pursuant to the Court's _____ Order mandating electronic service. See Cal.R.Ct.R. 2053, 2055, 2060. The transmission was reported as complete and without error.</p>
<p><input type="checkbox"/> <b>BY OVERNIGHT DELIVERY</b></p> <p>By delivering the document(s) listed above in a sealed envelope designated by the express service carrier, with delivery fees paid or provided for, addressed as per the above service list, to a facility regularly maintained by the express service carrier or to an authorized courier or driver authorized by the express service carrier to receive documents.</p>	<p><input type="checkbox"/> <b>BY ELECTRONIC SERVICE</b> (to individual person)</p> <p>By electronically transmitting the document(s) listed above to the email address(es) of the person(s) set forth on the attached service list. The transmission was reported as complete and without error. See Rules of Court, rule 2060.</p>
<p><input type="checkbox"/> <b>BY PERSONAL SERVICE</b></p> <p><input type="checkbox"/> By personally delivering the document(s) listed above to the offices at the addressee(s) as shown on the attached service list.</p> <p><input type="checkbox"/> By placing the document(s) listed above in a sealed envelope(s) and instructing a registered process server to personally deliver the envelope(s) to the offices at the address(es) set forth on the attached service list. The signed proof of service by the registered process server is attached.</p>	<p><input type="checkbox"/> <b>BY FACSIMILE</b></p> <p>By transmitting the document(s) listed above from City of Burbank-City Attorney's Office in Burbank, California to the facsimile machine telephone number(s) set forth on the attached service list. Service by facsimile transmission was made pursuant to agreement of the parties, confirmed in writing.</p>

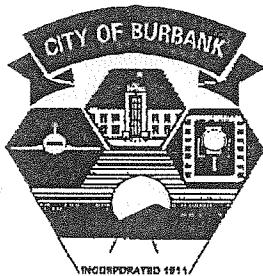
☒ **STATE**      I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ **FEDERAL**      I declare under penalty of perjury under the laws of the United States that I am employed in the office of a member of the bar of this court at whose direction the service is made.

Executed April 8, 2010, at **BURBANK, CALIFORNIA.**

Lusine Arutyunyan  
Type or Print Name

  
Signature



**OFFICE OF THE  
CITY ATTORNEY**  
**Dennis A. Barlow, City Attorney**  
275 E. Olive Avenue, Burbank, California 91502  
Tel: (818)238-5707 Fax: (818)238-5724

---

**FAX TRANSMITTAL COVER PAGE**

**To:** Steven M. Cischke  
Solomon E. Gresen  
LAW OFFICES OF RHEUBAN & GRESN

**From:** Lusine Arutyunyan  
Assistant to Carol Ann Humiston  
Senior Assistant City Attorney

**Fax:** (818) 815-2737

**Pages:** 5 including this page

**Phone:** (818) 815-2727

**Date:** 4/8/2010

**Re:** Russell Moore Deposition

☐ Urgent    ☒ For Review    ☐ Please Comment    ☐ Please Reply    ☐ Please Recycle

• **Comments:**

Problem with transmission? Please call (818)238-5707

THIS MESSAGE IS INTENDED FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED AND CONFIDENTIAL. If you are not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please immediately notify us by telephone and return the original transmission to us at the address above via the United States Postal Service. Thank you.

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